IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.3862 of 2005

Date of decision : 3.11.2006

Nirpal Singh and others .....Appellants

versus

Jarnail Kaur and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Ms.Ranjana Shahi, Advocate for the appellants
Mr.Ashok Singla, Advocate for respondent No.1.
Mr.Gurpreet Singh, Advocate for respondent Nos.4 to 6.

-.-

ORDER

HEMANT GUPTA, J. (oral)

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby their suit for declaration that they are the owners of the suit land as legatees of Ranjit Singh, has been dismissed.

The plaintiffs have relied upon a Will dated 10.1.1987, whereas Ranjit Singh had died on 3.2.1987. It has been found that the original Will dated 10.1.1987 has not been produced. Still further, both the attesting witnesses of the Will have died and Will is sought to be proved by examining Gurmej Singh PW-3 who is son of Mohinder Singh and Harpal Singh PW-5, who is son of Jaswant Singh, attesting witnesses. It has been found that said attesting witnesses are relations of the beneficiaries and reference could not be made to any document which Ranjit Singh might have signed in Urdu, even when the Will is a holograph Will.

Learned counsel for the appellant has vehemently argued that the learned First Appellate Court has wrongly declined the application of the plaintiffs for permission to lead additional evidence to prove a letter allegedly written on 19.1.1987 by Ranjit Singh and school certificate dated 13.5.1929 of Ranjit Singh. The said application has been declined on the ground that such documents have been sought to be proved after 16 years and that genuineness of these documents is not beyond dispute. It has come on record that Ranjit Singh was graduate and he used to sign in English. In the absence of original Will on record and dispute being with the natural heirs, I do not find any illegality and irregularity in the finding recorded by the Courts below that the Will dated 10.1.1987 is a forged Will. Such finding is a finding of fact based on proper appreciation of evidence.

I do not find any substantial question of law arises in the second appeal, for consideration of this Court.

Dismissed in limine.

3.11.2006 (HEMANT GUPTA)
*mohinder JUDGE